

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Byron Harris,

Case No. 1:18 CV 2199

Petitioner,

ORDER ADOPTING  
REPORT AND RECOMMENDATION

-vs-

JUDGE JACK ZOUHARY

Warden Edward Sheldon,

Respondent.

Petitioner *pro se* Byron Harris seeks a Writ of Habeas Corpus under 28 U.S.C. § 2254 (Doc. 1). Harris was convicted of aggravated murder in the Cuyahoga County Common Pleas Court and is currently serving a sentence of 29-years-to-life (Doc. 13 at 1).

After being convicted at trial and sentenced, Harris appealed to the state-appellate court, which affirmed his conviction and sentence (*id.* at 4–5). He timely appealed that decision, but the Ohio Supreme Court declined jurisdiction (*id.* at 6). Harris filed a motion to re-open his case before the appellate court, which was denied (*id.* at 7). The Ohio Supreme Court again declined jurisdiction (*id.* at 8). Harris then filed his Petition before this Court, which was automatically referred to Magistrate Judge William Baughman under Local Civil Rule 72.2(b)(2) (Non-Doc. Entry 09/25/2018). Respondent filed a Return of Writ (Doc. 6); Harris filed a Traverse (Doc. 12).

Judge Baughman issued a Report and Recommendation (“R&R”), concluding the Petition should be dismissed because each of Harris’s six claims are non-cognizable, procedurally defaulted, or meritless (Doc. 13 at 16–31). This Court has reviewed the Petition and Traverse. Because it is

clear Harris raises no meritorious grounds for federal habeas relief, this Court adopts the R&R in its entirety. *See Hill v. Duriron Co.*, 656 F.2d 1208 (6th Cir. 1981).

Although this Court reviews *de novo* any portions of an R&R to which a party timely objects under 28 U.S.C. § 636(b)(1), failure to timely object waives district and appellate court review of the R&R. *See Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981). The R&R notified the parties that failure to object would result in waiver (Doc. 13 at 31). *See Walters*, 638 F.2d at 950. Neither party has objected, and the deadline for objections has passed. This Court therefore adopts the R&R (Doc. 13) in its entirety.

The Petition (Doc. 1) is dismissed. There is no basis upon which to issue a certificate of appealability. *See* 28 U.S.C. § 2253(c)(2). Further, an appeal from this Order could not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

s/ Jack Zouhary  
JACK ZOUHARY  
U. S. DISTRICT JUDGE

August 23, 2021